

1 **SALES AND USE TAX EXEMPTION FOR**
2 **SALES OF CERTAIN AGRICULTURAL**
3 **PRODUCTS**

4 2006 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Gordon E. Snow**

7 Senate Sponsor: Mike Dmitrich

8
9 **LONG TITLE**

10 **General Description:**

11 This bill amends the Sales and Use Tax Act by modifying an exemption relating to the
12 sale of certain agricultural products.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ provides definitions;
- 16 ▶ repeals a requirement that certain agricultural products be locally grown to be
17 exempt from sales and use taxation;
- 18 ▶ addresses who may sell agricultural products for purposes of eligibility for the sales
19 and use tax exemption; and
- 20 ▶ makes technical changes.

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 This bill takes effect on July 1, 2006.

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **59-12-102**, as last amended by Chapters 158 and 246, Laws of Utah 2005



28 **59-12-104**, as last amended by Chapters 158, 203, 209, 240 and 246, Laws of Utah
29 2005



31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **59-12-102** is amended to read:

33 **59-12-102. Definitions.**

34 As used in this chapter:

35 (1) (a) "Admission or user fees" includes season passes.

36 (b) "Admission or user fees" does not include annual membership dues to private
37 organizations.

38 (2) "Agreement" means the Streamlined Sales and Use Tax Agreement described in
39 Section 59-12-102.1.

40 (3) "Agreement combined tax rate" means the sum of the tax rates:

41 (a) listed under Subsection (4); and

42 (b) that are imposed within a local taxing jurisdiction.

43 (4) "Agreement sales and use tax" means a tax imposed under:

44 (a) Subsection 59-12-103(2)(a)(i);

45 (b) Section 59-12-204;

46 (c) Section 59-12-401;

47 (d) Section 59-12-402;

48 (e) Section 59-12-501;

49 (f) Section 59-12-502;

50 (g) Section 59-12-703;

51 (h) Section 59-12-802;

52 (i) Section 59-12-804;

53 (j) Section 59-12-1001;

54 (k) Section 59-12-1102;

55 (l) Section 59-12-1302;

56 (m) Section 59-12-1402; or

57 (n) Section 59-12-1503.

58 (5) "Aircraft" is as defined in Section 72-10-102.

- 59 (6) "Alcoholic beverage" means a beverage that:
- 60 (a) is suitable for human consumption; and
- 61 (b) contains .5% or more alcohol by volume.
- 62 (7) "Area agency on aging" is as defined in Section 62A-3-101.
- 63 (8) "Authorized carrier" means:
- 64 (a) in the case of vehicles operated over public highways, the holder of credentials
- 65 indicating that the vehicle is or will be operated pursuant to both the International Registration
- 66 Plan and the International Fuel Tax Agreement;
- 67 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
- 68 certificate or air carrier's operating certificate; or
- 69 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
- 70 stock, the holder of a certificate issued by the United States Surface Transportation Board.
- 71 (9) (a) Except as provided in Subsection (9)(b), "biomass energy" means any of the
- 72 following that is used as the primary source of energy to produce fuel or electricity:
- 73 (i) material from a plant or tree; or
- 74 (ii) other organic matter that is available on a renewable basis, including:
- 75 (A) slash and brush from forests and woodlands;
- 76 (B) animal waste;
- 77 (C) methane produced:
- 78 (I) at landfills; or
- 79 (II) as a byproduct of the treatment of wastewater residuals;
- 80 (D) aquatic plants; and
- 81 (E) agricultural products.
- 82 (b) "Biomass energy" does not include:
- 83 (i) black liquor;
- 84 (ii) treated woods; or
- 85 (iii) biomass from municipal solid waste other than methane produced:
- 86 (A) at landfills; or
- 87 (B) as a byproduct of the treatment of wastewater residuals.
- 88 (10) "Certified automated system" means software certified by the governing board of
- 89 the agreement in accordance with Section 59-12-102.1 that:

90 (a) calculates the agreement sales and use tax imposed within a local taxing
91 jurisdiction:

- 92 (i) on a transaction; and
- 93 (ii) in the states that are members of the agreement;

94 (b) determines the amount of agreement sales and use tax to remit to a state that is a
95 member of the agreement; and

96 (c) maintains a record of the transaction described in Subsection (10)(a)(i).

97 (11) "Certified service provider" means an agent certified:

- 98 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;
- 99 and

100 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
101 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's
102 own purchases.

103 (12) (a) Subject to Subsection (12)(b), "clothing" means all human wearing apparel
104 suitable for general use.

105 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
106 commission shall make rules:

- 107 (i) listing the items that constitute "clothing"; and
- 108 (ii) that are consistent with the list of items that constitute "clothing" under the
109 agreement.

110 (13) (a) For purposes of Subsection 59-12-104(42), "coin-operated amusement device"
111 means:

- 112 (i) a coin-operated amusement, skill, or ride device;
- 113 (ii) that is not controlled through seller-assisted, over-the-counter, sales of tokens; and
- 114 (iii) includes a music machine, pinball machine, billiard machine, video game machine,
115 arcade machine, and a mechanical or electronic skill game or ride.

116 (b) For purposes of Subsection 59-12-104(42), "coin-operated amusement device" does
117 not mean a coin-operated amusement device possessing a coinage mechanism that:

- 118 (i) accepts and registers multiple denominations of coins; and
- 119 (ii) allows the seller to collect the sales and use tax at the time an amusement device is
120 activated and operated by a person inserting coins into the device.

121 (14) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
122 fuels that does not constitute industrial use under Subsection [~~(34)~~] (35) or residential use
123 under Subsection [~~(68)~~] (70).

124 (15) (a) "Common carrier" means a person engaged in or transacting the business of
125 transporting passengers, freight, merchandise, or other property for hire within this state.

126 (b) (i) "Common carrier" does not include a person who, at the time the person is
127 traveling to or from that person's place of employment, transports a passenger to or from the
128 passenger's place of employment.

129 (ii) For purposes of Subsection (15)(b)(i), in accordance with Title 63, Chapter 46a,
130 Utah Administrative Rulemaking Act, the commission may make rules defining what
131 constitutes a person's place of employment.

132 (16) "Component part" includes:

133 (a) poultry, dairy, and other livestock feed, and their components;

134 (b) baling ties and twine used in the baling of hay and straw;

135 (c) fuel used for providing temperature control of orchards and commercial
136 greenhouses doing a majority of their business in wholesale sales, and for providing power for
137 off-highway type farm machinery; and

138 (d) feed, seeds, and seedlings.

139 (17) "Computer" means an electronic device that accepts information:

140 (a) (i) in digital form; or

141 (ii) in a form similar to digital form; and

142 (b) manipulates that information for a result based on a sequence of instructions.

143 (18) "Computer software" means a set of coded instructions designed to cause:

144 (a) a computer to perform a task; or

145 (b) automatic data processing equipment to perform a task.

146 (19) "Construction materials" means any tangible personal property that will be
147 converted into real property.

148 (20) "Delivered electronically" means delivered to a purchaser by means other than
149 tangible storage media.

150 (21) (a) "Delivery charge" means a charge:

151 (i) by a seller of:

- 152 (A) tangible personal property; or
- 153 (B) services; and
- 154 (ii) for preparation and delivery of the tangible personal property or services described
- 155 in Subsection (21)(a)(i) to a location designated by the purchaser.
- 156 (b) "Delivery charge" includes a charge for the following:
- 157 (i) transportation;
- 158 (ii) shipping;
- 159 (iii) postage;
- 160 (iv) handling;
- 161 (v) crating; or
- 162 (vi) packing.
- 163 (22) "Dietary supplement" means a product, other than tobacco, that:
- 164 (a) is intended to supplement the diet;
- 165 (b) contains one or more of the following dietary ingredients:
- 166 (i) a vitamin;
- 167 (ii) a mineral;
- 168 (iii) an herb or other botanical;
- 169 (iv) an amino acid;
- 170 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 171 dietary intake; or
- 172 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 173 described in Subsections (22)(b)(i) through (v);
- 174 (c) (i) except as provided in Subsection (22)(c)(ii), is intended for ingestion in:
- 175 (A) tablet form;
- 176 (B) capsule form;
- 177 (C) powder form;
- 178 (D) softgel form;
- 179 (E) gelcap form; or
- 180 (F) liquid form; or
- 181 (ii) notwithstanding Subsection (22)(c)(i), if the product is not intended for ingestion in
- 182 a form described in Subsections (22)(c)(i)(A) through (F), is not represented:

- 183 (A) as conventional food; and
- 184 (B) for use as a sole item of:
 - 185 (I) a meal; or
 - 186 (II) the diet; and
- 187 (d) is required to be labeled as a dietary supplement:
 - 188 (i) identifiable by the "Supplemental Facts" box found on the label; and
 - 189 (ii) as required by 21 C.F.R. Sec. 101.36.
- 190 (23) (a) "Direct mail" means printed material delivered or distributed by United States
- 191 mail or other delivery service:
 - 192 (i) to:
 - 193 (A) a mass audience; or
 - 194 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
 - 195 (ii) if the cost of the printed material is not billed directly to the recipients.
- 196 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 197 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 198 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 199 single address.
- 200 (24) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 201 compound, substance, or preparation that is:
 - 202 (i) recognized in:
 - 203 (A) the official United States Pharmacopoeia;
 - 204 (B) the official Homeopathic Pharmacopoeia of the United States;
 - 205 (C) the official National Formulary; or
 - 206 (D) a supplement to a publication listed in Subsections (24)(a)(i)(A) through (C);
 - 207 (ii) intended for use in the:
 - 208 (A) diagnosis of disease;
 - 209 (B) cure of disease;
 - 210 (C) mitigation of disease;
 - 211 (D) treatment of disease; or
 - 212 (E) prevention of disease; or
 - 213 (iii) intended to affect:

214 (A) the structure of the body; or

215 (B) any function of the body.

216 (b) "Drug" does not include:

217 (i) food and food ingredients;

218 (ii) a dietary supplement;

219 (iii) an alcoholic beverage; or

220 (iv) a prosthetic device.

221 (25) (a) Except as provided in Subsection (25)(c), "durable medical equipment" means

222 equipment that:

223 (i) can withstand repeated use;

224 (ii) is primarily and customarily used to serve a medical purpose;

225 (iii) generally is not useful to a person in the absence of illness or injury; and

226 (iv) is not worn in or on the body.

227 (b) "Durable medical equipment" includes parts used in the repair or replacement of the

228 equipment described in Subsection (25)(a).

229 (c) Notwithstanding Subsection (25)(a), "durable medical equipment" does not include

230 mobility enhancing equipment.

231 (26) "Electronic" means:

232 (a) relating to technology; and

233 (b) having:

234 (i) electrical capabilities;

235 (ii) digital capabilities;

236 (iii) magnetic capabilities;

237 (iv) wireless capabilities;

238 (v) optical capabilities;

239 (vi) electromagnetic capabilities; or

240 (vii) capabilities similar to Subsections (26)(b)(i) through (vi).

241 (27) "Employee" is as defined in Section 59-10-401.

242 [~~27~~] (28) (a) "Food and food ingredients" means substances:

243 (i) regardless of whether the substances are in:

244 (A) liquid form;

- 245 (B) concentrated form;
- 246 (C) solid form;
- 247 (D) frozen form;
- 248 (E) dried form; or
- 249 (F) dehydrated form; and
- 250 (ii) that are:
- 251 (A) sold for:
- 252 (I) ingestion by humans; or
- 253 (II) chewing by humans; and
- 254 (B) consumed for the substance's:
- 255 (I) taste; or
- 256 (II) nutritional value.
- 257 (b) "Food and food ingredients" does not include:
- 258 (i) an alcoholic beverage;
- 259 (ii) tobacco; or
- 260 (iii) prepared food.
- 261 [~~28~~] (29) (a) "Fundraising sales" means sales:
- 262 (i) (A) made by a school; or
- 263 (B) made by a school student;
- 264 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 265 materials, or provide transportation; and
- 266 (iii) that are part of an officially sanctioned school activity.
- 267 (b) For purposes of Subsection [~~28~~] (29)(a)(iii), "officially sanctioned school activity"
- 268 means a school activity:
- 269 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 270 district governing the authorization and supervision of fundraising activities;
- 271 (ii) that does not directly or indirectly compensate an individual teacher or other
- 272 educational personnel by direct payment, commissions, or payment in kind; and
- 273 (iii) the net or gross revenues from which are deposited in a dedicated account
- 274 controlled by the school or school district.
- 275 [~~29~~] (30) "Geothermal energy" means energy contained in heat that continuously

276 flows outward from the earth that is used as the sole source of energy to produce electricity.

277 ~~[(30)]~~ (31) "Governing board of the agreement" means the governing board of the
278 agreement that is:

- 279 (a) authorized to administer the agreement; and
- 280 (b) established in accordance with the agreement.

281 ~~[(31)]~~ (32) (a) "Hearing aid" means:

282 (i) an instrument or device having an electronic component that is designed to:

283 (A) (I) improve impaired human hearing; or

284 (II) correct impaired human hearing; and

285 (B) (I) be worn in the human ear; or

286 (II) affixed behind the human ear;

287 (ii) an instrument or device that is surgically implanted into the cochlea; or

288 (iii) a telephone amplifying device.

289 (b) "Hearing aid" does not include:

290 (i) except as provided in Subsection ~~[(31)]~~ (32)(a)(i)(B) or ~~[(31)]~~ (32)(a)(ii), an

291 instrument or device having an electronic component that is designed to be worn on the body;

292 (ii) except as provided in Subsection ~~[(31)]~~ (32)(a)(iii), an assistive listening device or
293 system designed to be used by one individual, including:

294 (A) a personal amplifying system;

295 (B) a personal FM system;

296 (C) a television listening system; or

297 (D) a device or system similar to a device or system described in Subsections ~~[(31)]~~

298 ~~(32)~~(b)(ii)(A) through (C); or

299 (iii) an assistive listening device or system designed to be used by more than one
300 individual, including:

301 (A) a device or system installed in:

302 (I) an auditorium;

303 (II) a church;

304 (III) a conference room;

305 (IV) a synagogue; or

306 (V) a theater; or

307 (B) a device or system similar to a device or system described in Subsections [~~(31)~~
308 (32)(b)(iii)(A)(I) through (V).

309 [~~(32)~~] (33) (a) "Hearing aid accessory" means a hearing aid:

310 (i) component;

311 (ii) attachment; or

312 (iii) accessory.

313 (b) "Hearing aid accessory" includes:

314 (i) a hearing aid neck loop;

315 (ii) a hearing aid cord;

316 (iii) a hearing aid ear mold;

317 (iv) hearing aid tubing;

318 (v) a hearing aid ear hook; or

319 (vi) a hearing aid remote control.

320 (c) "Hearing aid accessory" does not include:

321 (i) a component, attachment, or accessory designed to be used only with an:

322 (A) instrument or device described in Subsection [~~(31)~~] (32)(b)(i); or

323 (B) assistive listening device or system described in Subsection [~~(31)~~] (32)(b)(ii) or
324 (iii); or

325 (ii) a hearing aid battery.

326 [~~(33)~~] (34) "Hydroelectric energy" means water used as the sole source of energy to
327 produce electricity.

328 [~~(34)~~] (35) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
329 or other fuels:

330 (a) in mining or extraction of minerals;

331 (b) in agricultural operations to produce an agricultural product up to the time of
332 harvest or placing the agricultural product into a storage facility, including:

333 (i) commercial greenhouses;

334 (ii) irrigation pumps;

335 (iii) farm machinery;

336 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
337 registered under Title 41, Chapter 1a, Part 2, Registration; and

338 (v) other farming activities;
339 (c) in manufacturing tangible personal property at an establishment described in SIC
340 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
341 Executive Office of the President, Office of Management and Budget; or

342 (d) by a scrap recycler if:
343 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
344 one or more of the following items into prepared grades of processed materials for use in new
345 products:

- 346 (A) iron;
- 347 (B) steel;
- 348 (C) nonferrous metal;
- 349 (D) paper;
- 350 (E) glass;
- 351 (F) plastic;
- 352 (G) textile; or
- 353 (H) rubber; and

354 (ii) the new products under Subsection [~~(34)~~] (35)(d)(i) would otherwise be made with
355 nonrecycled materials.

356 [~~(35)~~] (36) (a) Except as provided in Subsection [~~(35)~~] (36)(b), "installation charge"
357 means a charge for installing tangible personal property.

358 (b) Notwithstanding Subsection [~~(35)~~] (36)(a), "installation charge" does not include a
359 charge for repairs or renovations of tangible personal property.

360 [~~(36)~~] (37) (a) "Lease" or "rental" means a transfer of possession or control of tangible
361 personal property for:

- 362 (i) (A) a fixed term; or
- 363 (B) an indeterminate term; and

364 (ii) consideration.
365 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
366 amount of consideration may be increased or decreased by reference to the amount realized
367 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
368 Code.

- 369 (c) "Lease" or "rental" does not include:
- 370 (i) a transfer of possession or control of property under a security agreement or
371 deferred payment plan that requires the transfer of title upon completion of the required
372 payments;
- 373 (ii) a transfer of possession or control of property under an agreement that requires the
374 transfer of title:
- 375 (A) upon completion of required payments; and
- 376 (B) if the payment of an option price does not exceed the greater of:
- 377 (I) \$100; or
- 378 (II) 1% of the total required payments; or
- 379 (iii) providing tangible personal property along with an operator for a fixed period of
380 time or an indeterminate period of time if the operator is necessary for equipment to perform as
381 designed.
- 382 (d) For purposes of Subsection [~~36~~] (37)(c)(iii), an operator is necessary for
383 equipment to perform as designed if the operator's duties exceed the:
- 384 (i) set-up of tangible personal property;
- 385 (ii) maintenance of tangible personal property; or
- 386 (iii) inspection of tangible personal property.
- 387 [~~37~~] (38) "Load and leave" means delivery to a purchaser by use of a tangible storage
388 media if the tangible storage media is not physically transferred to the purchaser.
- 389 [~~38~~] (39) "Local taxing jurisdiction" means a:
- 390 (a) county that is authorized to impose an agreement sales and use tax;
- 391 (b) city that is authorized to impose an agreement sales and use tax; or
- 392 (c) town that is authorized to impose an agreement sales and use tax.
- 393 [~~39~~] (40) "Manufactured home" is as defined in Section 58-56-3.
- 394 [~~40~~] (41) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:
- 395 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
396 Industrial Classification Manual of the federal Executive Office of the President, Office of
397 Management and Budget; or
- 398 (b) a scrap recycler if:
- 399 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

400 one or more of the following items into prepared grades of processed materials for use in new
401 products:

- 402 (A) iron;
- 403 (B) steel;
- 404 (C) nonferrous metal;
- 405 (D) paper;
- 406 (E) glass;
- 407 (F) plastic;
- 408 (G) textile; or
- 409 (H) rubber; and

410 (ii) the new products under Subsection [~~(40)~~] (41)(b)(i) would otherwise be made with
411 nonrecycled materials.

412 (42) "Member of the immediate family of the producer" means a person who is related
413 to a producer described in Subsection 59-12-104(21)(a) as a:

- 414 (a) child or stepchild, regardless of whether the child or stepchild is:
 - 415 (i) an adopted child or adopted stepchild; or
 - 416 (ii) a foster child or foster stepchild;
- 417 (b) grandchild or stepgrandchild;
- 418 (c) grandparent or stepgrandparent;
- 419 (d) nephew or stepnephew;
- 420 (e) niece or stepniece;
- 421 (f) parent or stepparent;
- 422 (g) sibling or stepsibling;
- 423 (h) spouse;
- 424 (i) person who is the spouse of a person described in Subsections (42)(a) through (g);

425 or

426 (j) person similar to a person described in Subsections (42)(a) through (i) as
427 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
428 Administrative Rulemaking Act.

429 [~~(41)~~] (43) "Mobile home" is as defined in Section 58-56-3.

430 [~~(42)~~] (44) "Mobile telecommunications service" is as defined in the Mobile

431 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

432 ~~[(43)]~~ (45) (a) Except as provided in Subsection ~~[(43)]~~ (45)(c), "mobility enhancing
433 equipment" means equipment that is:

434 (i) primarily and customarily used to provide or increase the ability to move from one
435 place to another;

436 (ii) appropriate for use in a:

437 (A) home; or

438 (B) motor vehicle; and

439 (iii) not generally used by persons with normal mobility.

440 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
441 the equipment described in Subsection ~~[(43)]~~ (45)(a).

442 (c) Notwithstanding Subsection ~~[(43)]~~ (45)(a), "mobility enhancing equipment" does
443 not include:

444 (i) a motor vehicle;

445 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
446 vehicle manufacturer;

447 (iii) durable medical equipment; or

448 (iv) a prosthetic device.

449 ~~[(44)]~~ (46) "Model 1 seller" means a seller that has selected a certified service provider
450 as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales
451 and use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the
452 seller's own purchases.

453 ~~[(45)]~~ (47) "Model 2 seller" means a seller that:

454 (a) except as provided in Subsection ~~[(45)]~~ (47)(b), has selected a certified automated
455 system to perform the seller's sales tax functions for agreement sales and use taxes; and

456 (b) notwithstanding Subsection ~~[(45)]~~ (47)(a), retains responsibility for remitting all of
457 the sales tax:

458 (i) collected by the seller; and

459 (ii) to the appropriate local taxing jurisdiction.

460 ~~[(46)]~~ (48) (a) Subject to Subsection ~~[(46)]~~ (48)(b), "model 3 seller" means a seller that
461 has:

- 462 (i) sales in at least five states that are members of the agreement;
- 463 (ii) total annual sales revenues of at least \$500,000,000;
- 464 (iii) a proprietary system that calculates the amount of tax:
 - 465 (A) for an agreement sales and use tax; and
 - 466 (B) due to each local taxing jurisdiction; and
- 467 (iv) entered into a performance agreement with the governing board of the agreement.
- 468 (b) For purposes of Subsection [~~(46)~~] (48)(a), "model 3 seller" includes an affiliated
- 469 group of sellers using the same proprietary system.
- 470 [~~(47)~~] (49) "Modular home" means a modular unit as defined in Section 58-56-3.
- 471 [~~(48)~~] (50) "Motor vehicle" is as defined in Section 41-1a-102.
- 472 [~~(49)~~] (51) (a) "Other fuels" means products that burn independently to produce heat or
- 473 energy.
- 474 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 475 personal property.
- 476 [~~(50)~~] (52) "Pawnbroker" is as defined in Section 13-32a-102.
- 477 [~~(51)~~] (53) "Pawn transaction" is as defined in Section 13-32a-102.
- 478 [~~(52)~~] (54) (a) "Permanently attached to real property" means that for tangible personal
- 479 property attached to real property:
 - 480 (i) the attachment of the tangible personal property to the real property:
 - 481 (A) is essential to the use of the tangible personal property; and
 - 482 (B) suggests that the tangible personal property will remain attached to the real
 - 483 property in the same place over the useful life of the tangible personal property; or
 - 484 (ii) if the tangible personal property is detached from the real property, the detachment
 - 485 would:
 - 486 (A) cause substantial damage to the tangible personal property; or
 - 487 (B) require substantial alteration or repair of the real property to which the tangible
 - 488 personal property is attached.
- 489 (b) "Permanently attached to real property" includes:
 - 490 (i) the attachment of an accessory to the tangible personal property if the accessory is:
 - 491 (A) essential to the operation of the tangible personal property; and
 - 492 (B) attached only to facilitate the operation of the tangible personal property; or

493 (ii) a temporary detachment of tangible personal property from real property for a
494 repair or renovation if the repair or renovation is performed where the tangible personal
495 property and real property are located.

496 (c) "Permanently attached to real property" does not include:

497 (i) the attachment of portable or movable tangible personal property to real property if
498 that portable or movable tangible personal property is attached to real property only for:

499 (A) convenience;

500 (B) stability; or

501 (C) for an obvious temporary purpose; or

502 (ii) the detachment of tangible personal property from real property other than the
503 detachment described in Subsection [~~52~~] (54)(b)(ii).

504 [~~53~~] (55) "Person" includes any individual, firm, partnership, joint venture,
505 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
506 city, municipality, district, or other local governmental entity of the state, or any group or
507 combination acting as a unit.

508 [~~54~~] (56) "Place of primary use":

509 (a) for telephone service other than mobile telecommunications service, means the
510 street address representative of where the purchaser's use of the telephone service primarily
511 occurs, which shall be:

512 (i) the residential street address of the purchaser; or

513 (ii) the primary business street address of the purchaser; or

514 (b) for mobile telecommunications service, is as defined in the Mobile
515 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

516 [~~55~~] (57) "Postproduction" means an activity related to the finishing or duplication of
517 a medium described in Subsection 59-12-104(60)(a).

518 [~~56~~] (58) (a) "Prepared food" means:

519 (i) food:

520 (A) sold in a heated state; or

521 (B) heated by a seller;

522 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
523 item; or

524 (iii) except as provided in Subsection [~~(56)~~] (58)(c), food sold with an eating utensil
525 provided by the seller, including a:

- 526 (A) plate;
- 527 (B) knife;
- 528 (C) fork;
- 529 (D) spoon;
- 530 (E) glass;
- 531 (F) cup;
- 532 (G) napkin; or
- 533 (H) straw.

534 (b) "Prepared food" does not include:

535 (i) food that a seller only:

- 536 (A) cuts;
- 537 (B) repackages; or
- 538 (C) pasteurizes; or

539 (ii) (A) the following:

- 540 (I) raw egg;
- 541 (II) raw fish;
- 542 (III) raw meat;
- 543 (IV) raw poultry; or

544 (V) a food containing an item described in Subsections [~~(56)~~] (58)(b)(ii)(A)(I) through
545 (IV); and

546 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
547 Food and Drug Administration's Food Code that a consumer cook the items described in
548 Subsection [~~(56)~~] (58)(b)(ii)(A) to prevent food borne illness.

549 (c) Notwithstanding Subsection [~~(56)~~] (58)(a)(iii), an eating utensil provided by the
550 seller does not include the following used to transport the food:

- 551 (i) a container; or
- 552 (ii) packaging.

553 [~~(57)~~] (59) "Prescription" means an order, formula, or recipe that is issued:

554 (a) (i) orally;

- 555 (ii) in writing;
- 556 (iii) electronically; or
- 557 (iv) by any other manner of transmission; and
- 558 (b) by a licensed practitioner authorized by the laws of a state.
- 559 ~~[(58)]~~ (60) (a) Except as provided in Subsection ~~[(58)]~~ (60)(b)(ii) or (iii), "prewritten
- 560 computer software" means computer software that is not designed and developed:
- 561 (i) by the author or other creator of the computer software; and
- 562 (ii) to the specifications of a specific purchaser.
- 563 (b) "Prewritten computer software" includes:
- 564 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 565 software is not designed and developed:
- 566 (A) by the author or other creator of the computer software; and
- 567 (B) to the specifications of a specific purchaser;
- 568 (ii) notwithstanding Subsection ~~[(58)]~~ (60)(a), computer software designed and
- 569 developed by the author or other creator of the computer software to the specifications of a
- 570 specific purchaser if the computer software is sold to a person other than the purchaser; or
- 571 (iii) notwithstanding Subsection ~~[(58)]~~ (60)(a) and except as provided in Subsection
- 572 ~~[(58)]~~ (60)(c), prewritten computer software or a prewritten portion of prewritten computer
- 573 software:
- 574 (A) that is modified or enhanced to any degree; and
- 575 (B) if the modification or enhancement described in Subsection ~~[(58)]~~ (60)(b)(iii)(A) is
- 576 designed and developed to the specifications of a specific purchaser.
- 577 (c) Notwithstanding Subsection ~~[(58)]~~ (60)(b)(iii), "prewritten computer software"
- 578 does not include a modification or enhancement described in Subsection ~~[(58)]~~ (60)(b)(iii) if
- 579 the charges for the modification or enhancement are:
- 580 (i) reasonable; and
- 581 (ii) separately stated on the invoice or other statement of price provided to the
- 582 purchaser.
- 583 ~~[(59)]~~ (61) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 584 (i) artificially replace a missing portion of the body;
- 585 (ii) prevent or correct a physical deformity or physical malfunction; or

- 586 (iii) support a weak or deformed portion of the body.
- 587 (b) "Prosthetic device" includes:
- 588 (i) parts used in the repairs or renovation of a prosthetic device; or
- 589 (ii) replacement parts for a prosthetic device.
- 590 (c) "Prosthetic device" does not include:
- 591 (i) corrective eyeglasses;
- 592 (ii) contact lenses;
- 593 (iii) hearing aids; or
- 594 (iv) dental prostheses.
- 595 ~~[(60)]~~ (62) (a) "Protective equipment" means an item:
- 596 (i) for human wear; and
- 597 (ii) that is:
- 598 (A) designed as protection:
- 599 (I) to the wearer against injury or disease; or
- 600 (II) against damage or injury of other persons or property; and
- 601 (B) not suitable for general use.
- 602 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 603 commission shall make rules:
- 604 (i) listing the items that constitute "protective equipment"; and
- 605 (ii) that are consistent with the list of items that constitute "protective equipment"
- 606 under the agreement.
- 607 ~~[(61)]~~ (63) (a) "Purchase price" and "sales price" mean the total amount of
- 608 consideration:
- 609 (i) valued in money; and
- 610 (ii) for which tangible personal property or services are:
- 611 (A) sold;
- 612 (B) leased; or
- 613 (C) rented.
- 614 (b) "Purchase price" and "sales price" include:
- 615 (i) the seller's cost of the tangible personal property or services sold;
- 616 (ii) expenses of the seller, including:

- 617 (A) the cost of materials used;
- 618 (B) a labor cost;
- 619 (C) a service cost;
- 620 (D) interest;
- 621 (E) a loss;
- 622 (F) the cost of transportation to the seller; or
- 623 (G) a tax imposed on the seller; or
- 624 (iii) a charge by the seller for any service necessary to complete the sale.
- 625 (c) "Purchase price" and "sales price" do not include:
- 626 (i) a discount:
- 627 (A) in a form including:
- 628 (I) cash;
- 629 (II) term; or
- 630 (III) coupon;
- 631 (B) that is allowed by a seller;
- 632 (C) taken by a purchaser on a sale; and
- 633 (D) that is not reimbursed by a third party; or
- 634 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 635 provided to the purchaser:
- 636 (A) the amount of a trade-in;
- 637 (B) the following from credit extended on the sale of tangible personal property or
- 638 services:
- 639 (I) interest charges;
- 640 (II) financing charges; or
- 641 (III) carrying charges;
- 642 (C) a tax or fee legally imposed directly on the consumer;
- 643 (D) a delivery charge; or
- 644 (E) an installation charge.
- 645 [(62)] (64) "Purchaser" means a person to whom:
- 646 (a) a sale of tangible personal property is made; or
- 647 (b) a service is furnished.

648 [~~(63)~~] (65) "Regularly rented" means:

- 649 (a) rented to a guest for value three or more times during a calendar year; or
- 650 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 651 value.

652 [~~(64)~~] (66) "Renewable energy" means:

- 653 (a) biomass energy;
- 654 (b) hydroelectric energy;
- 655 (c) geothermal energy;
- 656 (d) solar energy; or
- 657 (e) wind energy.

658 [~~(65)~~] (67) (a) "Renewable energy production facility" means a facility that:

- 659 (i) uses renewable energy to produce electricity; and
- 660 (ii) has a production capacity of 20 kilowatts or greater.
- 661 (b) A facility is a renewable energy production facility regardless of whether the
- 662 facility is:

- 663 (i) connected to an electric grid; or
- 664 (ii) located on the premises of an electricity consumer.

665 [~~(66)~~] (68) "Rental" is as defined in Subsection [~~(36)~~] (37).

666 [~~(67)~~] (69) "Repairs or renovations of tangible personal property" means:

- 667 (a) a repair or renovation of tangible personal property that is not permanently attached
- 668 to real property; or
- 669 (b) attaching tangible personal property to other tangible personal property if the other
- 670 tangible personal property to which the tangible personal property is attached is not
- 671 permanently attached to real property.

672 [~~(68)~~] (70) "Residential use" means the use in or around a home, apartment building,

673 sleeping quarters, and similar facilities or accommodations.

674 [~~(69)~~] (71) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose

675 other than:

- 676 (a) resale;
- 677 (b) sublease; or
- 678 (c) subrent.

679 ~~[(70)]~~ (72) (a) "Retailer" means any person engaged in a regularly organized business
680 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1),
681 and who is selling to the user or consumer and not for resale.

682 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
683 engaged in the business of selling to users or consumers within the state.

684 ~~[(71)]~~ (73) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
685 otherwise, in any manner, of tangible personal property or any other taxable transaction under
686 Subsection 59-12-103(1), for consideration.

687 (b) "Sale" includes:

688 (i) installment and credit sales;

689 (ii) any closed transaction constituting a sale;

690 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
691 chapter;

692 (iv) any transaction if the possession of property is transferred but the seller retains the
693 title as security for the payment of the price; and

694 (v) any transaction under which right to possession, operation, or use of any article of
695 tangible personal property is granted under a lease or contract and the transfer of possession
696 would be taxable if an outright sale were made.

697 ~~[(72)]~~ (74) "Sale at retail" is as defined in Subsection ~~[(69)]~~ (71).

698 ~~[(73)]~~ (75) "Sale-leaseback transaction" means a transaction by which title to tangible
699 personal property that is subject to a tax under this chapter is transferred:

700 (a) by a purchaser-lessee;

701 (b) to a lessor;

702 (c) for consideration; and

703 (d) if:

704 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
705 of the tangible personal property;

706 (ii) the sale of the tangible personal property to the lessor is intended as a form of
707 financing:

708 (A) for the property; and

709 (B) to the purchaser-lessee; and

710 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
711 is required to:

- 712 (A) capitalize the property for financial reporting purposes; and
- 713 (B) account for the lease payments as payments made under a financing arrangement.

714 [~~(74)~~] (76) "Sales price" is as defined in Subsection [~~(61)~~] (63).

715 [~~(75)~~] (77) (a) "Sales relating to schools" means the following sales by, amounts paid
716 to, or amounts charged by a school:

717 (i) sales that are directly related to the school's educational functions or activities

718 including:

719 (A) the sale of:

- 720 (I) textbooks;
- 721 (II) textbook fees;
- 722 (III) laboratory fees;
- 723 (IV) laboratory supplies; or
- 724 (V) safety equipment;

725 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

726 that:

727 (I) a student is specifically required to wear as a condition of participation in a
728 school-related event or school-related activity; and

729 (II) is not readily adaptable to general or continued usage to the extent that it takes the
730 place of ordinary clothing;

731 (C) sales of the following if the net or gross revenues generated by the sales are
732 deposited into a school district fund or school fund dedicated to school meals:

- 733 (I) food and food ingredients; or
- 734 (II) prepared food; or
- 735 (D) transportation charges for official school activities; or

736 (ii) amounts paid to or amounts charged by a school for admission to a school-related
737 event or school-related activity.

738 (b) "Sales relating to schools" does not include:

739 (i) bookstore sales of items that are not educational materials or supplies;

740 (ii) except as provided in Subsection [~~(75)~~] (77)(a)(i)(B):

- 741 (A) clothing;
- 742 (B) clothing accessories or equipment;
- 743 (C) protective equipment; or
- 744 (D) sports or recreational equipment; or
- 745 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 746 event or school-related activity if the amounts paid or charged are passed through to a person:
- 747 (A) other than a:
- 748 (I) school;
- 749 (II) nonprofit organization authorized by a school board or a governing body of a
- 750 private school to organize and direct a competitive secondary school activity; or
- 751 (III) nonprofit association authorized by a school board or a governing body of a
- 752 private school to organize and direct a competitive secondary school activity; and
- 753 (B) that is required to collect sales and use taxes under this chapter.
- 754 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 755 commission may make rules defining the term "passed through."
- 756 [~~76~~] (78) For purposes of this section and Section 59-12-104, "school" means:
- 757 (a) an elementary school or a secondary school that:
- 758 (i) is a:
- 759 (A) public school; or
- 760 (B) private school; and
- 761 (ii) provides instruction for one or more grades kindergarten through 12; or
- 762 (b) a public school district.
- 763 [~~77~~] (79) "Seller" means a person that makes a sale, lease, or rental of:
- 764 (a) tangible personal property; or
- 765 (b) a service.
- 766 [~~78~~] (80) (a) "Semiconductor fabricating or processing materials" means tangible
- 767 personal property:
- 768 (i) used primarily in the process of:
- 769 (A) (I) manufacturing a semiconductor; or
- 770 (II) fabricating a semiconductor; or
- 771 (B) maintaining an environment suitable for a semiconductor; or

- 772 (ii) consumed primarily in the process of:
- 773 (A) (I) manufacturing a semiconductor; or
- 774 (II) fabricating a semiconductor; or
- 775 (B) maintaining an environment suitable for a semiconductor.
- 776 (b) "Semiconductor fabricating or processing materials" includes:
- 777 (i) parts used in the repairs or renovations of tangible personal property described in
- 778 Subsection [~~(78)~~] (80)(a); or
- 779 (ii) a chemical, catalyst, or other material used to:
- 780 (A) produce or induce in a semiconductor a:
- 781 (I) chemical change; or
- 782 (II) physical change;
- 783 (B) remove impurities from a semiconductor; or
- 784 (C) improve the marketable condition of a semiconductor.
- 785 [~~(79)~~] (81) "Senior citizen center" means a facility having the primary purpose of
- 786 providing services to the aged as defined in Section 62A-3-101.
- 787 [~~(80)~~] (82) "Simplified electronic return" means the electronic return:
- 788 (a) described in Section 318(C) of the agreement; and
- 789 (b) approved by the governing board of the agreement.
- 790 [~~(81)~~] (83) "Solar energy" means the sun used as the sole source of energy for
- 791 producing electricity.
- 792 [~~(82)~~] (84) (a) "Sports or recreational equipment" means an item:
- 793 (i) designed for human use; and
- 794 (ii) that is:
- 795 (A) worn in conjunction with:
- 796 (I) an athletic activity; or
- 797 (II) a recreational activity; and
- 798 (B) not suitable for general use.
- 799 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 800 commission shall make rules:
- 801 (i) listing the items that constitute "sports or recreational equipment"; and
- 802 (ii) that are consistent with the list of items that constitute "sports or recreational

803 equipment" under the agreement.

804 ~~[(83)]~~ (85) "State" means the state of Utah, its departments, and agencies.

805 ~~[(84)]~~ (86) "Storage" means any keeping or retention of tangible personal property or

806 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose

807 except sale in the regular course of business.

808 ~~[(85)]~~ (87) (a) "Tangible personal property" means personal property that:

809 (i) may be:

810 (A) seen;

811 (B) weighed;

812 (C) measured;

813 (D) felt; or

814 (E) touched; or

815 (ii) is in any manner perceptible to the senses.

816 (b) "Tangible personal property" includes:

817 (i) electricity;

818 (ii) water;

819 (iii) gas;

820 (iv) steam; or

821 (v) prewritten computer software.

822 ~~[(86)]~~ (88) (a) "Telephone service" means a two-way transmission:

823 (i) by:

824 (A) wire;

825 (B) radio;

826 (C) lightwave; or

827 (D) other electromagnetic means; and

828 (ii) of one or more of the following:

829 (A) a sign;

830 (B) a signal;

831 (C) writing;

832 (D) an image;

833 (E) sound;

- 834 (F) a message;
- 835 (G) data; or
- 836 (H) other information of any nature.

837 (b) "Telephone service" includes:

- 838 (i) mobile telecommunications service;
- 839 (ii) private communications service; or
- 840 (iii) automated digital telephone answering service.

841 (c) "Telephone service" does not include a service or a transaction that a state or a
842 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
843 Tax Freedom Act, Pub. L. No. 105-277.

844 [~~(87)~~] (89) Notwithstanding where a call is billed or paid, "telephone service address"
845 means:

846 (a) if the location described in this Subsection [~~(87)~~] (89)(a) is known, the location of
847 the telephone service equipment:

- 848 (i) to which a call is charged; and
- 849 (ii) from which the call originates or terminates;

850 (b) if the location described in Subsection [~~(87)~~] (89)(a) is not known but the location
851 described in this Subsection [~~(87)~~] (89)(b) is known, the location of the origination point of the
852 signal of the telephone service first identified by:

- 853 (i) the telecommunications system of the seller; or
- 854 (ii) if the system used to transport the signal is not that of the seller, information
855 received by the seller from its service provider; or

856 (c) if the locations described in Subsection [~~(87)~~] (89)(a) or (b) are not known, the
857 location of a purchaser's primary place of use.

858 [~~(88)~~] (90) (a) "Telephone service provider" means a person that:

- 859 (i) owns, controls, operates, or manages a telephone service; and
- 860 (ii) engages in an activity described in Subsection [~~(88)~~] (90)(a)(i) for the shared use
861 with or resale to any person of the telephone service.

862 (b) A person described in Subsection [~~(88)~~] (90)(a) is a telephone service provider
863 whether or not the Public Service Commission of Utah regulates:

- 864 (i) that person; or

865 (ii) the telephone service that the person owns, controls, operates, or manages.

866 [~~(89)~~] (91) "Tobacco" means:

867 (a) a cigarette;

868 (b) a cigar;

869 (c) chewing tobacco;

870 (d) pipe tobacco; or

871 (e) any other item that contains tobacco.

872 [~~(90)~~] (92) (a) "Use" means the exercise of any right or power over tangible personal
873 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
874 property, item, or service.

875 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
876 the regular course of business and held for resale.

877 [~~(91)~~] (93) (a) Subject to Subsection [~~(91)~~] (93)(b), "vehicle" means the following that
878 are required to be titled, registered, or titled and registered:

879 (i) an aircraft as defined in Section 72-10-102;

880 (ii) a vehicle as defined in Section 41-1a-102;

881 (iii) an off-highway vehicle as defined in Section 41-22-2; or

882 (iv) a vessel as defined in Section 41-1a-102.

883 (b) For purposes of Subsection 59-12-104(35) only, "vehicle" includes:

884 (i) a vehicle described in Subsection [~~(91)~~] (93)(a); or

885 (ii) (A) a locomotive;

886 (B) a freight car;

887 (C) railroad work equipment; or

888 (D) other railroad rolling stock.

889 [~~(92)~~] (94) "Vehicle dealer" means a person engaged in the business of buying, selling,
890 or exchanging a vehicle as defined in Subsection [~~(91)~~] (93).

891 [~~(93)~~] (95) (a) Except as provided in Subsection [~~(93)~~] (95)(b), "waste energy facility"
892 means a facility that generates electricity:

893 (i) using as the primary source of energy waste materials that would be placed in a
894 landfill or refuse pit if it were not used to generate electricity, including:

895 (A) tires;

- 896 (B) waste coal; or
897 (C) oil shale; and
898 (ii) in amounts greater than actually required for the operation of the facility.
- 899 (b) "Waste energy facility" does not include a facility that incinerates:
900 (i) municipal solid waste;
901 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
902 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 903 [~~94~~] (96) "Watercraft" means a vessel as defined in Section 73-18-2.
904 [~~95~~] (97) "Wind energy" means wind used as the sole source of energy to produce
905 electricity.
- 906 [~~96~~] (98) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
907 geographic location by the United States Postal Service.
- 908 Section 2. Section **59-12-104** is amended to read:
909 **59-12-104. Exemptions.**
- 910 The following sales and uses are exempt from the taxes imposed by this chapter:
911 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
912 under Chapter 13, Motor and Special Fuel Tax Act;
913 (2) sales to the state, its institutions, and its political subdivisions; however, this
914 exemption does not apply to sales of:
915 (a) construction materials except:
916 (i) construction materials purchased by or on behalf of institutions of the public
917 education system as defined in Utah Constitution Article X, Section 2, provided the
918 construction materials are clearly identified and segregated and installed or converted to real
919 property which is owned by institutions of the public education system; and
920 (ii) construction materials purchased by the state, its institutions, or its political
921 subdivisions which are installed or converted to real property by employees of the state, its
922 institutions, or its political subdivisions; or
923 (b) tangible personal property in connection with the construction, operation,
924 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
925 providing additional project capacity, as defined in Section 11-13-103;
926 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

- 927 (i) the proceeds of each sale do not exceed \$1; and
928 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
929 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 930 (b) Subsection (3)(a) applies to:
- 931 (i) food and food ingredients; or
932 (ii) prepared food;
- 933 (4) sales of the following to a commercial airline carrier for in-flight consumption:
- 934 (a) food and food ingredients;
935 (b) prepared food; or
936 (c) services related to Subsection (4)(a) or (b);
- 937 (5) sales of parts and equipment for installation in aircraft operated by common carriers
938 in interstate or foreign commerce;
- 939 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
940 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
941 exhibitor, distributor, or commercial television or radio broadcaster;
- 942 (7) sales of cleaning or washing of tangible personal property by a coin-operated
943 laundry or dry cleaning machine;
- 944 (8) sales made to or by religious or charitable institutions in the conduct of their regular
945 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
946 fulfilled;
- 947 (9) sales of vehicles of a type required to be registered under the motor vehicle laws of
948 this state which are made to bona fide nonresidents of this state and are not afterwards
949 registered or used in this state except as necessary to transport them to the borders of this state;
- 950 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 951 (i) the item is intended for human use; and
952 (ii) (A) a prescription was issued for the item; or
953 (B) the item was purchased by a hospital or other medical facility; and
- 954 (b) (i) Subsection (10)(a) applies to:
- 955 (A) a drug;
956 (B) a syringe; or
957 (C) a stoma supply; and

958 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
959 commission may by rule define the terms:

960 (A) "syringe"; or

961 (B) "stoma supply";

962 (11) sales or use of property, materials, or services used in the construction of or
963 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

964 (12) (a) sales of an item described in Subsection (12)(c) served by:

965 (i) the following if the item described in Subsection (12)(c) is not available to the
966 general public:

967 (A) a church; or

968 (B) a charitable institution;

969 (ii) an institution of higher education if:

970 (A) the item described in Subsection (12)(c) is not available to the general public; or

971 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
972 offered by the institution of higher education; or

973 (b) sales of an item described in Subsection (12)(c) provided for a patient by:

974 (i) a medical facility; or

975 (ii) a nursing facility; and

976 (c) Subsections (12)(a) and (b) apply to:

977 (i) food and food ingredients;

978 (ii) prepared food; or

979 (iii) alcoholic beverages;

980 (13) isolated or occasional sales by persons not regularly engaged in business, except
981 the sale of vehicles or vessels required to be titled or registered under the laws of this state in
982 which case the tax is based upon:

983 (a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;

984 or

985 (b) in the absence of a bill of sale or other written evidence of value, the then existing
986 fair market value of the vehicle or vessel being sold as determined by the commission;

987 (14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:

988 (i) machinery and equipment:

- 989 (A) used in the manufacturing process;
- 990 (B) having an economic life of three or more years; and
- 991 (C) used:
- 992 (I) to manufacture an item sold as tangible personal property; and
- 993 (II) in new or expanding operations in a manufacturing facility in the state; and
- 994 (ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:
- 995 (A) have an economic life of three or more years;
- 996 (B) are used in the manufacturing process in a manufacturing facility in the state;
- 997 (C) are used to replace or adapt an existing machine to extend the normal estimated
- 998 useful life of the machine; and
- 999 (D) do not include repairs and maintenance;
- 1000 (b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:
- 1001 (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in
- 1002 Subsection (14)(a)(ii) is exempt;
- 1003 (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described
- 1004 in Subsection (14)(a)(ii) is exempt; and
- 1005 (iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection
- 1006 (14)(a)(ii) is exempt;
- 1007 (c) for purposes of this Subsection (14), the commission shall by rule define the terms
- 1008 "new or expanding operations" and "establishment"; and
- 1009 (d) on or before October 1, 1991, and every five years after October 1, 1991, the
- 1010 commission shall:
- 1011 (i) review the exemptions described in Subsection (14)(a) and make recommendations
- 1012 to the Revenue and Taxation Interim Committee concerning whether the exemptions should be
- 1013 continued, modified, or repealed; and
- 1014 (ii) include in its report:
- 1015 (A) the cost of the exemptions;
- 1016 (B) the purpose and effectiveness of the exemptions; and
- 1017 (C) the benefits of the exemptions to the state;
- 1018 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
- 1019 (i) tooling;

- 1020 (ii) special tooling;
- 1021 (iii) support equipment;
- 1022 (iv) special test equipment; or
- 1023 (v) parts used in the repairs or renovations of tooling or equipment described in
- 1024 Subsections (15)(a)(i) through (iv); and
- 1025 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
- 1026 (i) the tooling, equipment, or parts are used or consumed exclusively in the
- 1027 performance of any aerospace or electronics industry contract with the United States
- 1028 government or any subcontract under that contract; and
- 1029 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
- 1030 title to the tooling, equipment, or parts is vested in the United States government as evidenced
- 1031 by:
- 1032 (A) a government identification tag placed on the tooling, equipment, or parts; or
- 1033 (B) listing on a government-approved property record if placing a government
- 1034 identification tag on the tooling, equipment, or parts is impractical;
- 1035 (16) intrastate movements of:
- 1036 (a) freight by common carriers; or
- 1037 (b) passengers:
- 1038 (i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial
- 1039 Classification Manual of the federal Executive Office of the President, Office of Management
- 1040 and Budget;
- 1041 (ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard
- 1042 Industrial Classification Manual of the federal Executive Office of the President, Office of
- 1043 Management and Budget, if the transportation originates and terminates within a county of the
- 1044 first, second, or third class; or
- 1045 (iii) transported by the following described in SIC Code 4789 of the 1987 Standard
- 1046 Industrial Classification Manual of the federal Executive Office of the President, Office of
- 1047 Management and Budget:
- 1048 (A) a horse-drawn cab; or
- 1049 (B) a horse-drawn carriage;
- 1050 (17) sales of newspapers or newspaper subscriptions;

1051 (18) (a) except as provided in Subsection (18)(b), tangible personal property traded in
1052 as full or part payment of the purchase price, except that for purposes of calculating sales or use
1053 tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and
1054 the tax is based upon:

1055 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
1056 vehicle being traded in; or

1057 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
1058 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
1059 commission; and

1060 (b) notwithstanding Subsection (18)(a), Subsection (18)(a) does not apply to the
1061 following items of tangible personal property traded in as full or part payment of the purchase
1062 price:

1063 (i) money;

1064 (ii) electricity;

1065 (iii) water;

1066 (iv) gas; or

1067 (v) steam;

1068 (19) (a) (i) except as provided in Subsection (19)(b), sales of tangible personal property
1069 used or consumed primarily and directly in farming operations, regardless of whether the
1070 tangible personal property:

1071 (A) becomes part of real estate; or

1072 (B) is installed by a:

1073 (I) farmer;

1074 (II) contractor; or

1075 (III) subcontractor; or

1076 (ii) sales of parts used in the repairs or renovations of tangible personal property if the
1077 tangible personal property is exempt under Subsection (19)(a)(i); and

1078 (b) notwithstanding Subsection (19)(a), amounts paid or charged for the following
1079 tangible personal property are subject to the taxes imposed by this chapter:

1080 (i) (A) subject to Subsection (19)(b)(i)(B), the following tangible personal property if
1081 the tangible personal property is used in a manner that is incidental to farming:

- 1082 (I) machinery;
- 1083 (II) equipment;
- 1084 (III) materials; or
- 1085 (IV) supplies; and
- 1086 (B) tangible personal property that is considered to be used in a manner that is
- 1087 incidental to farming includes:
 - 1088 (I) hand tools; or
 - 1089 (II) maintenance and janitorial equipment and supplies;
 - 1090 (ii) (A) subject to Subsection (19)(b)(ii)(B), tangible personal property if the tangible
 - 1091 personal property is used in an activity other than farming; and
 - 1092 (B) tangible personal property that is considered to be used in an activity other than
 - 1093 farming includes:
 - 1094 (I) office equipment and supplies; or
 - 1095 (II) equipment and supplies used in:
 - 1096 (Aa) the sale or distribution of farm products;
 - 1097 (Bb) research; or
 - 1098 (Cc) transportation; or
 - 1099 (iii) a vehicle required to be registered by the laws of this state during the period ending
 - 1100 two years after the date of the vehicle's purchase;
 - 1101 (20) sales of hay;
 - 1102 (21) exclusive sale during the harvest season of [~~locally grown~~] seasonal crops,
 - 1103 seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling
 - 1104 plants are, or garden, farm, or other agricultural produce is sold by [a producer during the
 - 1105 harvest season];
 - 1106 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
 - 1107 agricultural produce;
 - 1108 (b) an employee of the producer described in Subsection (21)(a); or
 - 1109 (c) a member of the immediate family of the producer described in Subsection (21)(a);
 - 1110 (22) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
 - 1111 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
 - 1112 (23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,

1113 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
1114 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
1115 manufacturer, processor, wholesaler, or retailer;

1116 (24) property stored in the state for resale;

1117 (25) property brought into the state by a nonresident for his or her own personal use or
1118 enjoyment while within the state, except property purchased for use in Utah by a nonresident
1119 living and working in Utah at the time of purchase;

1120 (26) property purchased for resale in this state, in the regular course of business, either
1121 in its original form or as an ingredient or component part of a manufactured or compounded
1122 product;

1123 (27) property upon which a sales or use tax was paid to some other state, or one of its
1124 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
1125 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
1126 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
1127 Act;

1128 (28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
1129 person for use in compounding a service taxable under the subsections;

1130 (29) purchases made in accordance with the special supplemental nutrition program for
1131 women, infants, and children established in 42 U.S.C. Sec. 1786;

1132 (30) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
1133 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
1134 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
1135 Manual of the federal Executive Office of the President, Office of Management and Budget;

1136 (31) sales of boats of a type required to be registered under Title 73, Chapter 18, State
1137 Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents of
1138 this state and are not thereafter registered or used in this state except as necessary to transport
1139 them to the borders of this state;

1140 (32) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah
1141 where a sales or use tax is not imposed, even if the title is passed in Utah;

1142 (33) amounts paid for the purchase of telephone service for purposes of providing
1143 telephone service;

- 1144 (34) fares charged to persons transported directly by a public transit district created
1145 under the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;
- 1146 (35) sales or leases of vehicles to, or use of vehicles by an authorized carrier;
- 1147 (36) (a) 45% of the sales price of any new manufactured home; and
1148 (b) 100% of the sales price of any used manufactured home;
- 1149 (37) sales relating to schools and fundraising sales;
- 1150 (38) sales or rentals of durable medical equipment if:
1151 (a) a person presents a prescription for the durable medical equipment; and
1152 (b) the durable medical equipment is used for home use only;
- 1153 (39) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
1154 Section 72-11-102; and
1155 (b) the commission shall by rule determine the method for calculating sales exempt
1156 under Subsection (39)(a) that are not separately metered and accounted for in utility billings;
- 1157 (40) sales to a ski resort of:
1158 (a) snowmaking equipment;
1159 (b) ski slope grooming equipment;
1160 (c) passenger ropeways as defined in Section 72-11-102; or
1161 (d) parts used in the repairs or renovations of equipment or passenger ropeways
1162 described in Subsections (40)(a) through (c);
- 1163 (41) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 1164 (42) sales or rentals of the right to use or operate for amusement, entertainment, or
1165 recreation a coin-operated amusement device as defined in Section 59-12-102;
- 1166 (43) sales of cleaning or washing of tangible personal property by a coin-operated car
1167 wash machine;
- 1168 (44) sales by the state or a political subdivision of the state, except state institutions of
1169 higher education as defined in Section 53B-3-102, of:
1170 (a) photocopies; or
1171 (b) other copies of records held or maintained by the state or a political subdivision of
1172 the state;
- 1173 (45) (a) amounts paid:
1174 (i) to a person providing intrastate transportation to an employer's employee to or from

1175 the employee's primary place of employment;

1176 (ii) by an:

1177 (A) employee; or

1178 (B) employer; and

1179 (iii) pursuant to a written contract between:

1180 (A) the employer; and

1181 (B) (I) the employee; or

1182 (II) a person providing transportation to the employer's employee; and

1183 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1184 commission may for purposes of Subsection (45)(a) make rules defining what constitutes an

1185 employee's primary place of employment;

1186 (46) amounts paid for admission to an athletic event at an institution of higher

1187 education that is subject to the provisions of Title IX of the Education Amendments of 1972,

1188 20 U.S.C. Sec. 1681 et seq.;

1189 (47) sales of telephone service charged to a prepaid telephone calling card;

1190 (48) (a) sales of:

1191 (i) hearing aids;

1192 (ii) hearing aid accessories; or

1193 (iii) except as provided in Subsection (48)(b), parts used in the repairs or renovations

1194 of hearing aids or hearing aid accessories; and

1195 (b) for purposes of this Subsection (48), notwithstanding Subsection (48)(a)(iii),

1196 "parts" does not include batteries;

1197 (49) (a) sales made to or by:

1198 (i) an area agency on aging; or

1199 (ii) a senior citizen center owned by a county, city, or town; or

1200 (b) sales made by a senior citizen center that contracts with an area agency on aging;

1201 (50) (a) beginning on July 1, 2001, through June 30, 2007, and subject to Subsection

1202 (50)(b), a sale or lease of semiconductor fabricating or processing materials regardless of

1203 whether the semiconductor fabricating or processing materials:

1204 (i) actually come into contact with a semiconductor; or

1205 (ii) ultimately become incorporated into real property;

1206 (b) (i) beginning on July 1, 2001, through June 30, 2002, 10% of the sale or lease
1207 described in Subsection (50)(a) is exempt;

1208 (ii) beginning on July 1, 2002, through June 30, 2003, 50% of the sale or lease
1209 described in Subsection (50)(a) is exempt; and

1210 (iii) beginning on July 1, 2003, through June 30, 2007, the entire amount of the sale or
1211 lease described in Subsection (50)(a) is exempt; and

1212 (c) each year on or before the November interim meeting, the Revenue and Taxation
1213 Interim Committee shall:

1214 (i) review the exemption described in this Subsection (50) and make recommendations
1215 concerning whether the exemption should be continued, modified, or repealed; and

1216 (ii) include in the review under this Subsection (50)(c):

1217 (A) the cost of the exemption;

1218 (B) the purpose and effectiveness of the exemption; and

1219 (C) the benefits of the exemption to the state;

1220 (51) an amount paid by or charged to a purchaser for accommodations and services
1221 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
1222 59-12-104.2;

1223 (52) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
1224 sports event registration certificate in accordance with Section 41-3-306 for the event period
1225 specified on the temporary sports event registration certificate;

1226 (53) sales or uses of electricity, if the sales or uses are:

1227 (a) made under a tariff adopted by the Public Service Commission of Utah only for
1228 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
1229 source, as designated in the tariff by the Public Service Commission of Utah; and

1230 (b) for an amount of electricity that is:

1231 (i) unrelated to the amount of electricity used by the person purchasing the electricity
1232 under the tariff described in Subsection (53)(a); and

1233 (ii) equivalent to the number of kilowatthours specified in the tariff described in
1234 Subsection (53)(a) that may be purchased under the tariff described in Subsection (53)(a);

1235 (54) sales or rentals of mobility enhancing equipment if a person presents a
1236 prescription for the mobility enhancing equipment;

- 1237 (55) sales of water in a:
1238 (a) pipe;
1239 (b) conduit;
1240 (c) ditch; or
1241 (d) reservoir;
- 1242 (56) sales of currency or coinage that constitute legal tender of the United States or of a
1243 foreign nation;
- 1244 (57) (a) sales of an item described in Subsection (57)(b) if the item:
1245 (i) does not constitute legal tender of any nation; and
1246 (ii) has a gold, silver, or platinum content of 80% or more; and
1247 (b) Subsection (57)(a) applies to a gold, silver, or platinum:
1248 (i) ingot;
1249 (ii) bar;
1250 (iii) medallion; or
1251 (iv) decorative coin;
- 1252 (58) amounts paid on a sale-leaseback transaction;
- 1253 (59) sales of a prosthetic device:
1254 (a) for use on or in a human;
1255 (b) for which a prescription is issued; and
1256 (c) to a person that presents a prescription for the prosthetic device;
- 1257 (60) (a) except as provided in Subsection (60)(b), purchases, leases, or rentals of
1258 machinery or equipment by an establishment described in Subsection (60)(c) if the machinery
1259 or equipment is primarily used in the production or postproduction of the following media for
1260 commercial distribution:
1261 (i) a motion picture;
1262 (ii) a television program;
1263 (iii) a movie made for television;
1264 (iv) a music video;
1265 (v) a commercial;
1266 (vi) a documentary; or
1267 (vii) a medium similar to Subsections (60)(a)(i) through (vi) as determined by the

1268 commission by administrative rule made in accordance with Subsection (60)(d); or
1269 (b) notwithstanding Subsection (60)(a), purchases, leases, or rentals of machinery or
1270 equipment by an establishment described in Subsection (60)(c) that is used for the production
1271 or postproduction of the following are subject to the taxes imposed by this chapter:
1272 (i) a live musical performance;
1273 (ii) a live news program; or
1274 (iii) a live sporting event;
1275 (c) the following establishments listed in the 1997 North American Industry
1276 Classification System of the federal Executive Office of the President, Office of Management
1277 and Budget, apply to Subsections (60)(a) and (b):
1278 (i) NAICS Code 512110; or
1279 (ii) NAICS Code 51219; and
1280 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1281 commission may by rule:
1282 (i) prescribe what constitutes a medium similar to Subsections (60)(a)(i) through (vi);
1283 or
1284 (ii) define:
1285 (A) "commercial distribution";
1286 (B) "live musical performance";
1287 (C) "live news program"; or
1288 (D) "live sporting event";
1289 (61) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
1290 or before June 30, 2009, of machinery or equipment that:
1291 (i) is leased or purchased for or by a facility that:
1292 (A) is a renewable energy production facility;
1293 (B) is located in the state; and
1294 (C) (I) becomes operational on or after July 1, 2004; or
1295 (II) has its generation capacity increased by one or more megawatts on or after July 1,
1296 2004 as a result of the use of the machinery or equipment;
1297 (ii) has an economic life of five or more years; and
1298 (iii) is used to make the facility or the increase in capacity of the facility described in

- 1299 Subsection (61)(a)(i) operational up to the point of interconnection with an existing
1300 transmission grid including:
- 1301 (A) a wind turbine;
 - 1302 (B) generating equipment;
 - 1303 (C) a control and monitoring system;
 - 1304 (D) a power line;
 - 1305 (E) substation equipment;
 - 1306 (F) lighting;
 - 1307 (G) fencing;
 - 1308 (H) pipes; or
 - 1309 (I) other equipment used for locating a power line or pole; and
- 1310 (b) this Subsection (61) does not apply to:
- 1311 (i) machinery or equipment used in construction of:
 - 1312 (A) a new renewable energy production facility; or
 - 1313 (B) the increase in the capacity of a renewable energy production facility;
 - 1314 (ii) contracted services required for construction and routine maintenance activities;
- 1315 and
- 1316 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
1317 of the facility described in Subsection (61)(a)(i)(C)(II), machinery or equipment used or
1318 acquired after:
 - 1319 (A) the renewable energy production facility described in Subsection (61)(a)(i) is
1320 operational as described in Subsection (61)(a)(iii); or
 - 1321 (B) the increased capacity described in Subsection (61)(a)(i) is operational as described
1322 in Subsection (61)(a)(iii);
- 1323 (62) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
1324 or before June 30, 2009, of machinery or equipment that:
- 1325 (i) is leased or purchased for or by a facility that:
 - 1326 (A) is a waste energy production facility;
 - 1327 (B) is located in the state; and
 - 1328 (C) (I) becomes operational on or after July 1, 2004; or
 - 1329 (II) has its generation capacity increased by one or more megawatts on or after July 1,

1330 2004 as a result of the use of the machinery or equipment;

1331 (ii) has an economic life of five or more years; and

1332 (iii) is used to make the facility or the increase in capacity of the facility described in

1333 Subsection (62)(a)(i) operational up to the point of interconnection with an existing

1334 transmission grid including:

1335 (A) generating equipment;

1336 (B) a control and monitoring system;

1337 (C) a power line;

1338 (D) substation equipment;

1339 (E) lighting;

1340 (F) fencing;

1341 (G) pipes; or

1342 (H) other equipment used for locating a power line or pole; and

1343 (b) this Subsection (62) does not apply to:

1344 (i) machinery or equipment used in construction of:

1345 (A) a new waste energy facility; or

1346 (B) the increase in the capacity of a waste energy facility;

1347 (ii) contracted services required for construction and routine maintenance activities;

1348 and

1349 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

1350 described in Subsection (62)(a)(i)(C)(II), machinery or equipment used or acquired after:

1351 (A) the waste energy facility described in Subsection (62)(a)(i) is operational as

1352 described in Subsection (62)(a)(iii); or

1353 (B) the increased capacity described in Subsection (62)(a)(i) is operational as described

1354 in Subsection (62)(a)(iii);

1355 (63) (a) leases of five or more years or purchases made on or after July 1, 2004 but on

1356 or before June 30, 2009, of machinery or equipment that:

1357 (i) is leased or purchased for or by a facility that:

1358 (A) is located in the state;

1359 (B) produces fuel from biomass energy including:

1360 (I) methanol; or

- 1361 (II) ethanol; and
- 1362 (C) (I) becomes operational on or after July 1, 2004; or
- 1363 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
- 1364 a result of the installation of the machinery or equipment;
- 1365 (ii) has an economic life of five or more years; and
- 1366 (iii) is installed on the facility described in Subsection (63)(a)(i);
- 1367 (b) this Subsection (63) does not apply to:
- 1368 (i) machinery or equipment used in construction of:
- 1369 (A) a new facility described in Subsection (63)(a)(i); or
- 1370 (B) the increase in capacity of the facility described in Subsection (63)(a)(i); or
- 1371 (ii) contracted services required for construction and routine maintenance activities;
- 1372 and
- 1373 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
- 1374 described in Subsection (63)(a)(i)(C)(II), machinery or equipment used or acquired after:
- 1375 (A) the facility described in Subsection (63)(a)(i) is operational; or
- 1376 (B) the increased capacity described in Subsection (63)(a)(i) is operational;
- 1377 (64) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle
- 1378 for purchasing the new vehicle;
- 1379 (65) (a) subject to Subsection (65)(b), sales of tangible personal property to persons
- 1380 within this state that is subsequently shipped outside the state and incorporated pursuant to
- 1381 contract into and becomes a part of real property located outside of this state, except to the
- 1382 extent that the other state or political entity imposes a sales, use, gross receipts, or other similar
- 1383 transaction excise tax on it against which the other state or political entity allows a credit for
- 1384 taxes imposed by this chapter; and
- 1385 (b) the exemption provided for in Subsection (65)(a):
- 1386 (i) is allowed only if the exemption is applied:
- 1387 (A) in calculating the purchase price of the tangible personal property; and
- 1388 (B) to a written contract that is in effect on July 1, 2004; and
- 1389 (ii) (A) does not apply beginning on the day on which the contract described in
- 1390 Subsection (65)(b)(i):
- 1391 (I) is substantially modified; or

1392 (II) terminates; and
1393 (B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
1394 the commission may by rule prescribe the circumstances under which a contract is substantially
1395 modified;
1396 (66) purchases:
1397 (a) of one or more of the following items in printed or electronic format:
1398 (i) a list containing information that includes one or more:
1399 (A) names; or
1400 (B) addresses; or
1401 (ii) a database containing information that includes one or more:
1402 (A) names; or
1403 (B) addresses; and
1404 (b) used to send direct mail; and
1405 (67) redemptions or repurchases of property by a person if that property was:
1406 (a) delivered to a pawnbroker as part of a pawn transaction; and
1407 (b) redeemed or repurchased within the time period established in a written agreement
1408 between the person and the pawnbroker for redeeming or repurchasing the property.
1409 Section 3. **Effective date.**
1410 This bill takes effect on July 1, 2006.

Legislative Review Note
as of 11-16-05 7:00 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-21-05 4:11 PM

The Revenue and Taxation Interim Committee recommended this bill.

Mixed Membership Committee Note
as of 12-21-05 4:11 PM

12-21-05 4:11 PM

H.B. 54

The Tax Reform Task Force recommended this bill.

Membership:	13 legislators	2 non-legislators	
Legislative Vote:	10 voting for	1 voting against	2 absent